IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No: 16397 of 2004

Between:

G.Jalandar S/o.Narsaiah
R/o. 8-32, Ramanthapur, Uppal Mandal, Ranga Reddy District.

..... PETITIONER

AND

1 Uppal Municipality rep by its Commissioner, Uppal R.R. District.
2 Hyderabad Urban Development Authority, rep. by its Vice Cha

Police Lines, Begumpet, Hyderabad.
3 District Collector, Ranga Reddy District at Hyderabad.
4 Mandal Revenue Officer, Uppal Mandal, Ranga Reddy Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ declaring that the action of the 4th respondent contained in proceedings No.B/3204/2004 dated 1.6.2004 and proceed to record a finding that the lands in Sy.No.44 is within the Full Tank Limits of Pedda Cheruvu Tank, is arbitrary and illegal and direct the 1st respondent to consider and grant construction permission to the petitioner forthwith in respect of his land in Plot Nos.12 and 13 Part in Sy.No.44 of Ramanthapur Village, Uppal Mandal, Ranga Reddy District and grant such other relief as it deems fit in the circumstances of the case.

Counsel for the Petitioner:MR.V.VENKATARAMANA

Counsel for the Respondent No.1: MR.POLISETTI RADHAKRISHNA (SC FOR MPL)

Counsel for the Respondent No.2: Mr.B.Viswanath Reddy, (SC for HUDA)

Counsel for the Respondent No.3 & 4: GP for Revenue

The Court made the following :

O R D E R:

The grievance of the petitioner is about the respondents not considering his application for construction of a house in his Plot Nos.12 and 13, which are in part of Survey No.44 of Ramanthapur Village, Uppal Mandal, Ranga Reddy District, on the ground that it falls within the full tank level of Peddacheruvu Tank of Uppal Mandal, Ramanthapur, though he was issued a certificate earlier that his plot is out side the tank area.

2. The contention of Sri Vedula Venkata Ramana, learned counsel for the petitioner is that since plot Nos.12 and 13 are private patta lands and are not acquired by the Government to keep it as reserve area for full tank level of Ramanthapur Tank till now, to make it also a part of the tank, petitioner has a right to construct a house therein as per the building rules and bylaws and regulations framed under the Municipalities Act. He stated that petitioner undertakes not claim the value of the building to be constructed by him, in case, the respondents were to take a decision to acquire the land of petitioner as reserve land for full tank level area of Peddacheruvu, and would claim compensation only for the land, respondents cannot have an objection for the petition constructing the building in his own land that too when the plots that are falling in his full tank level are not yet finalized.

3. The contention of the learned Standing counsel for the first respondent is that when notice under Secion 228 (1) and (2) of Municipality Act was issued to him while proceeding with unauthorized construction, petitioner filed W.P.No.20980 of 2003 and that petition was disposed of with some directions to the petitioner, but he did not comply with those direction and so he is not entitled to any relief, because it would be hazardous for the petitioner and his family to build a house in an area, which falls within full tank level.

4. If the petitioner is making any unauthorized constructions, respondents are always at liberty to deal with them as per law. So his proceeding with construction without permission, cannot be an impediment for deciding this petition.

5. Since the petitioner undertakes that he would construct the building as per the building rules etc., at his own risk and would not claim any compensation for the building in the event of the respondents initiating proceedings for acquiring land for preserving the full tank level, and since the land of petitioner, presently, is out side the tank area, there can be no impediment for the respondents processing the application of the petitioner keeping in view the said undertaking.

6. Therefore, the writ petition is disposed of with a direction to the first respondent to consider the application of the petitioner and see whether it is in accordance with the provisions of the A.P.Municipalities Act and the building rules and regulations, and master plan etc., of the Urban Development Authorities and if all the requirements are satisfied, not reject the same merely on the basis that it falls within the full tank level of Peddacheruvu, and consider the same subject to the undertaking given by

the petitioner that he is undertaking the construction at his own risk and would not claim compensation for the building, or for the other eventualities in case of risk or acquisition, for preserving the land for full tank level.

7. The writ petition is disposed of accordingly. No costs.

_____

13th April, 2005.

mrb

To

1 The Commissioner, Uppal Municipality, Uppal R.R. District.
2 The Vice Chairman, Hyderabad Urban Development Authority,

Police Lines, Begumpet, Hyderabad.
3 District Collector, Ranga Reddy District at Hyderabad.
4 Mandal Revenue Officer, Uppal Mandal, Ranga Reddy Dist.

5. Two CD copies.

6. Two CCs to G.P. for Revenue, High Court of A.P. (buildings), Hyderabad (OUT)